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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Written statement submitted by Human Rights Watch, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV)

[15 March 1996]

1. Despite implementation of the Oslo Accords, Palestinians living in the areas that remain under Israeli occupation are still subjected to human rights violations by Israel. While the incremental transfer of authority has reduced direct contact with the Israeli Defense Forces (IDF) in many areas, arbitrary arrests, torture during interrogation, and onerous restrictions on freedom of movement have continued.

2. While Israel has released thousands of prisoners since 1993, pursuant to the "Oslo II" accord, over 3,000 Palestinian prisoners remain in Israeli prisons. Information about their status and the charges against them is not available. Many were arrested by Israel just prior to the redeployment of Israeli forces from population centres in the West Bank. In February 1995, Israel lengthened the maximum period of administrative detention (internment without charge) from six months to one year, renewable. Among the more than 200 Palestinians currently in administrative detention, the longest-held has been detained without charge for over three years.

3. Israel allows human rights organizations to operate in the occupied territories. However, general restrictions on movement have interfered with the work of Palestinian human rights workers and at least one activist, Sha'wan Jabarin, was subjected to long-term detention. Jabarin, a field worker for the Palestinian human rights organization al-Haq, completed an eight-month term in administrative detention in February 1995, and was detained again on 5 February 1996, for the sixth time, and placed under administrative detention until 27 July 1996.

4. Beginning in October 1994, Palestinian groups opposed to the Israeli-PLO accord mounted a series of deadly bomb attacks against Israeli civilians in violation of international humanitarian norms. These attacks have led to an intense Israeli crackdown on suspected Hamas and Islamic Jihad members. Hundreds of suspects have been arrested and interrogated, often abusively. In October 1994, the Government of Israel announced that it would allow the General Security Service (GSS) to employ harsher interrogation methods. The new powers remain classified, as do the GSS's standing interrogation guidelines. But according to the testimony of Palestinians who underwent interrogation, the methods used in 1995 involved a more intensive use of those already practised: primarily a combination of sleep deprivation, hooding, prolonged standing or sitting in unnatural positions, threats, beatings and violent whiplashing of the head. Some combination of these methods is used on most of the hundreds of Palestinians who are interrogated, including those who are later released without charge. Applied in combination, these methods often amount to torture.

5. In April, Abd al-Samed Harizat, a suspected Hamas activist, died under Israeli interrogation. A Justice Ministry inquiry determined that Harizat had died from fatal brain damage caused by his interrogators violently shaking his head back and forth. Nevertheless, the state attorney declined to prosecute the interrogators. According to reports in the Israeli media, the Government renewed throughout the year its authorization for interrogators to employ the harsher interrogation methods, including whiplashing. While these methods were to be used only in "exceptional" cases with permission from superiors, they remain common. The continuation of this pattern is of particular concern in light of a proposed General Security Service Law which, while ostensibly aimed at prohibiting torture, would in fact legalize torture, by permitting "the use of pressure" pursuant to secret guidelines that have regularly permitted abusive interrogation techniques that amount to torture.

6. Human rights organizations have long charged that special army units have summarily killed scores of fugitives since 1989 without making an effort to capture them alive. In recent years the killing of fugitives has declined. Apparently no longer insisting that the killings were acts of self-defence, the army's commander of the West Bank forces told an Israeli newspaper in April 1995 that the objective of such operations was to kill certain wanted men.

7. Israeli-imposed restrictions on movement affect virtually all Palestinians in the West Bank and Gaza Strip. Israel continues to restrict Palestinians entering the occupied territories from abroad as well as those seeking to leave the occupied territories for travel to other countries. Travel within the territories is restricted through a system of permits and

checkpoints. Although Israel justifies these restrictions on security grounds, they are often applied arbitrarily without regard to individual guilt or to the hardship they create. Appeals procedures for Palestinians who are denied permits are neither efficient nor transparent.

8. In addition to causing economic hardship and obstacles to trade, the periodic Israeli closure of the West Bank and Gaza severely disrupts Palestinian life by restricting access to medical treatment, religious worship and university attendance. For example, Gaza students are regularly prevented from pursuing their university studies on the West Bank, while other Palestinians are prevented from travelling to Jerusalem to worship, meet business contacts or submit visa requests at foreign consulates. Prolonged closures and curfews often are imposed in a broad and inflexible manner that suggests collective punishment.

9. Only a small number of the Palestinian residents of the West Bank and Gaza hold valid Israeli-issued permits that allow them to enter East Jerusalem. They are also effectively the only ones permitted to travel between the West Bank and the Gaza Strip, since that trip requires crossing through Israeli territory.

10. Tensions over Israeli settlements continue to simmer, particularly in Hebron, where the Israeli army continues to respond to settler-Palestinian strife by subjecting Palestinians - but not settlers - to curfews, road closures, and delays at checkpoints. Settlers continue to vandalize Palestinian property, throw stones at Palestinian homes and otherwise harass Palestinians, with little risk of the firm official response that authorities administer to Palestinians suspected of similar acts against Jews.

11. Human Rights Watch calls on the United Nations Commission on Human Rights to urge Israel to cease arbitrary restrictions that violate the right to freedom of movement and harm the welfare of the Palestinian population. In addition, Israel should ensure that all security forces that come into contact with Palestinians, whether in the self-rule areas or elsewhere in the occupied territories, are held to international standards with respect to the use of force. Israel should also stop the arbitrary arrest and detention of Palestinians without charge, and release all prisoners and detainees being held for the legitimate exercise of their right to non-violent dissent. Those who are charged with recognizable offences must receive fair trials in which their due process rights are safeguarded. Finally, all remaining prisoners held in Israel should be transferred to the occupied territories, in accordance with the Fourth Geneva Convention.

Violations by the Palestinian Authority (PA)

12. Human rights in the areas under Palestinian rule remain in a precarious state. Although Palestinians savour freedoms that they had not known during the years of the direct Israeli occupation, the PA has made little progress in establishing the rule of law. Violations of human rights include physical abuse of detainees, intimidation by the numerous PA security agencies, strong pressure on the media, and closed-door trials of opposition suspects that have violated basic due-process norms.

13. Under pressure from Israel and the United States to prevent and punish attacks on Israelis from the areas he administers, Chairman Yassir Arafat has ordered the arrest of suspected members of opposition groups, primarily from Hamas and Islamic Jihad, and had them imprisoned without formal charges for weeks or months at a time. Beginning in April 1995, the PA began to try suspects in "state security courts". Trials in these courts, which stand outside the existing Palestinian civil and military court system, are closed and have usually taken place at night. The proceedings, which often last only minutes, are presided over by security force officers with no previous judicial experience. Defendants, who are mostly accused of planning or taking part in violent activities on behalf of the Islamist opposition, are given insufficient notice of the charges and are not represented by lawyers of their own choosing. Most of the trials have ended in convictions and prison terms. To date there have been at least 42 trials in the state security courts, most in Gaza.

14. Since 1994, at least five Palestinians have died under suspicious circumstances during or after interrogation by the Palestinian security services, or shortly after their release from detention. In one death-in-detention case involving a United States citizen of Palestinian origin, the United States Government pressed for a serious inquiry and the PA announced that five security-force members had been detained. However, all of these investigations into the deaths lacked transparency, raising doubts about the commitment of the PA to exposing the facts and punishing abuse in its ranks.

15. The various security agencies have come under scrutiny for their conduct not only within the self-rule areas but also beyond their borders. An August 1995 report by the Israeli human rights organization B'Tselem accused the Palestinian Preventive Security Service (PSS) of conducting policing activities throughout the West Bank, even though the Cairo Agreement gave them responsibility for internal security only in the self-rule areas. The PSS was accused of arresting residents without warrants, holding them in detention without charge for long periods, and torturing them during interrogation. B'Tselem pointed out that the PSS was, with Israeli acquiescence, filling a vacuum in that Israeli occupation forces had largely neglected law enforcement in criminal matters.

16. The PSS denounced the B'Tselem report as "baseless" and denied that the abuses it documented were the work of PSS agents. It also publicly accused a field worker at the Israeli human rights organization B'Tselem who was a Palestinian resident of Jerusalem of being an agent of the Israeli police. Many rights groups protested that this remark was a malicious and unsubstantiated allegation that could endanger the field worker's personal safety. The PA gave assurances that human rights groups were free to work in the self-rule areas, but did not formally retract the accusation.

17. Following the release of a critical statement on the decree to establish the Palestinian state security courts in February 1995, Raji Sourani, then-director of the Gaza Center for Rights and Law (GCRL), was detained overnight for questioning. A seminar organized by the GCRL to examine the state security courts was barred by the PA on the pretext that the requisite permit had not been obtained.

18. Restrictions on freedom of expression are also evident in the aggressive pressure that the PA has put on the Palestinian media to temper criticism of the Israeli-PLO accord and the Authority's record. Numerous journalists have been briefly arrested and newspapers suspended on at least five occasions for articles deemed critical of the Authority. In May 1995, the Gaza state security court sentenced the editor of the Hamas-affiliated al-Watan newspaper to two years in prison on charges of incitement against the Authority.

19. Human Rights Watch calls on the United Nations Commission on Human Rights to urge the PA to ensure that arrest and detention procedures conform to international standards. In addition, the PA should release all prisoners and detainees held for the legitimate exercise of their right to non-violent dissent, and those who are charged with a recognizable offence must receive fair trials in which their due-process rights are safeguarded. Finally, the PA should cease restrictions on the right to freedom of expression.